

REMARKS

Claims 1-3 and 5-9 are pending. Claims 4 and 10-20 are withdrawn as directed to non-elected species or invention.

The Amendments

At page 1, the amendment in the specification corrects the priority claim.

Other amendments in the specification have corrected typographic or grammatical errors.

Claims 1, 2, 6 and 7 are amended to delete the non-elected invention and NR₁R₂. Claim 1 is further amended to clarify the meaning of the claim.

No new matter is introduced in any of the amendments.

The Priority Claim

Applicants have submitted a Request to Amend Priority Claim on February 26, 2003. A copy of the Request, Inventor Declaration, and postcard receipt is enclosed herewith. The Examiner is requested to correct the priority claim of this application.

The Response

Claim Objection

Claim 2 is objected to for missing a period. The correction has been made.

Specification

The Examiner requests that the present status of all parent applications be included. Applicants submit that the parent application is still pending. Therefore, no amendment needs to be made in the specification as to referencing the status of the parent application.

Minor Informality

The Examiner requests that Applicants correct spelling or grammatical errors. Applicants have made appropriate correction in the specification.

Provisional Double-patenting Rejection

Claims 1-3 and 5-9 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claim 1 of Application No. 09/643,138.

Applicants are deferring the response to this provisional rejection until the instant claims are otherwise allowable.

Rejoinder

Once the Examiner finds the generic claim allowable, Applicants request the Examiner to consider the withdrawn Claim 4, which is directed to additional species and is written in a dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR §1.141. Claim 4 would be amended as follows.

4. The ~~composition~~ compound according to Claim 3, wherein: A is ~~selected from the group consisting of~~ OR₁[[,]] or SR₁, NR₁R₂, and CR₁R₂R₃, wherein R₁, R₂, and R₃ are independently is hydrogen, alkyl, cycloalkyl, aryl, arylalkyl, phosphonate, or acylthioalkyl with the exception of OR₁ and SR₁ not being OH or SH; ~~or wherein NR₁R₂ and CR₁R₂R₃ are taken together to form a ring with or without substituents or heteroatoms;~~

X₁, X₂, and X₃ are oxygen, dichloromethylene, or difluoromethylene;;

T₁, T₂, W, and V are oxygen;

the sum of m+n+p is from 0 to 4;

M is sodium;

D is oxygen;

Y and Z are both OH.

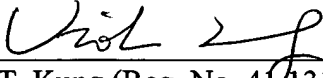
Once the Examiner finds the elected product claims allowable, Applicants request the Examiner to rejoin the withdrawn method claims (Claims 10-20), which depend on the allowable product claims. (MPEP 821.04)

CONCLUSION

Applicants believe that the application is in good and proper condition for allowance. Early notification of allowance is earnestly solicited. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is encouraged to call the undersigned.

Respectfully submitted,

Date: June 30, 2005



Viola T. Kung (Reg. No. 41,131)

Enclosures (Copy of Request to Correct Priority Claim and Inventor Declaration)

HOWREY SIMON ARNOLD & WHITE, LLP
301 Ravenswood Avenue
Box 34
Menlo Park, CA 94025
Ph. (650) 463-8181



COPY

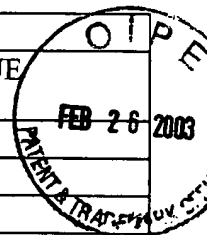
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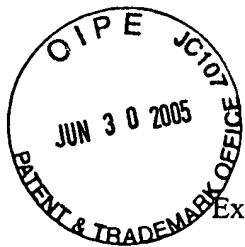
PTO

<input checked="" type="checkbox"/> New Application For:		Priority Date:	
<input type="checkbox"/> Foreign priority already claimed	Fee Amount: or any related fee not specified		
<input type="checkbox"/> Continuation	<input type="checkbox"/> CIP	<input type="checkbox"/> Divisional	CPA <input type="checkbox"/>
<input type="checkbox"/> Specification:	Pages	<input type="checkbox"/> Drawings:	Sheets
<input type="checkbox"/> Response to Office Action Dated:		<input type="checkbox"/> Final Rejection	
<input checked="" type="checkbox"/> Other: PTO Form 1083 (1 pg.); Request to Amend Priority (1 pg.); Combined Dec. & Power (4 pgs.); and postcard			
<input type="checkbox"/> Assignment Enclosed	<input type="checkbox"/> Cert. of Timely Mailing	<input checked="" type="checkbox"/> Exp. Mail: EL539792281US	

IDENTIFICATION OF APPLICATION

Serial No.: 10/082,998		Responsible Attorney: APH/VTK	
Title: COMPOSITIONS AND METHODS FOR TREATING EPITHELIAL AND RETINAL TISSUE DISEASES			
Applicant: Benjamin R. Yerxa, et al.		Entered By: jp	
Client: Inspire		Firm File No.: 03678.0101 CPUS00	
Mailed: February 26, 2003		Filed: February 26, 2003	
		Due Date:	





Express Mail No.: EL539792281US

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HOWREY SIMON ARNOLD & WHITE, LLP
301 Ravenswood Avenue, Box 34
Menlo Park, CA 94025
(650) 463-8100

FORM PTO-1083

Attorney Docket No.: 03678.0102.CPUS00

In re application of:

Benjamin R. Yerxa, et al.

Appl. No.: 10/082,998

Filed: February 27, 2003

Confirmation No.: 3186

For: **COMPOSITIONS AND METHODS FOR TREATING EPITHELIAL AND RETINAL
TISSUE DISEASES**

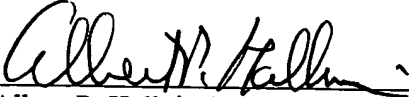
COMMISSIONER FOR PATENTS
Washington, D.C. 20231

Sir:

Transmitted herewith is the following in the above-identified application.

1. PTO Form 1083 (1 pg.);
2. Request to Amend Priority Claim (1 pg.);
3. Combined Declaration and Power of Attorney (4 pgs.); and
4. Return Receipt Postcard.

■ The U.S. Patent and Trademark Office is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 08-3038 referencing docket number 03678.0102.CPUS00. A duplicate copy of this sheet is attached.


Albert P. Halluin (Reg. No. 25,227)
Viola T. Kung (Reg. No. 41,131)

Date: February 26, 2003

HOWREY SIMON ARNOLD & WHITE, LLP
Box No. 34
301 Ravenswood Ave.
Menlo Park, CA 94025
(650) 463-8109



EXPRESS MAIL NO.: EL539792281US

COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
Benjamim R. YERXA, et al.

Appl. No.: 10/082,998

Filed: February 27, 2002

For: COMPOSITIONS AND
METHODS FOR TREATING
EPITHELIAL AND RETINAL
TISSUE DISEASES

Art Unit: 1635

Examiner: Not Yet Assigned

Attorney Docket: 03678.0102.CPUS00

Confirmation No.: 3186

REQUEST TO AMEND PRIORITY CLAIM

Commissioner for Patents
Washington, D.C. 20231

Sir:

Applicants are requesting herewith to correct priority claim of this application. Applicants have incorrectly claimed benefit of both applications 09/934,970, filed August 21, 2001, and 09/643,138, filed August 21, 2000. The correct priority claim is only to 09/643,138, filed August 21, 2000. Applicants are submitting herewith newly executed Invention Declaration, which indicates the correct priority claim.

Applicants request that a corrected Filing Receipt be issued to reflect the change in priority claim.

Respectfully submitted,

Date: February 26, 2003

Albert P. Halluin (Reg. No. 25,227)
Viola T. Kung (Reg. No. 41,131)

HOWREY SIMON ARNOLD & WHITE, LLP
301 Ravenswood Avenue
Box No. 34
Menlo Park, CA 94025
(650) 463-8109



COPY

Combined Declaration and Power of Attorney for Patent Application

Docket Number: 03678.0102.CPUS00

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter that is claimed and for which a patent is sought on the invention entitled Compositions and Methods for Treating Epithelial and Retinal Tissue Diseases, the specification of which is attached hereto unless the following box is checked:

☒ was filed on February 27, 2002;
as United States Application Number or PCT International Application Number 10/082,998; and
was amended on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information that is material to patentability as defined in 37 C.F.R. § 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT international application, which designated at least one country other than the United States listed below, and have also identified below any foreign application for patent or inventor's certificate, or PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)

Priority Claimed

☐ Yes ☐ No

(Application No.) (Country) (Day/Month/Year Filed)

☐ Yes ☐ No

(Application No.) (Country) (Day/Month/Year Filed)

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below.

(Application No.) (Filing Date)

(Application No.) (Filing Date)

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or under § 365(c) of any PCT international application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose information that is material to patentability as defined in 37 C.F.R. § 1.56 that became available between the filing date of the prior application and the national or PCT international filing date of this application.

<u>09/643,138</u>	<u>August 21, 2000</u>	<u>Pending</u>
(Application No.)	(Filing Date)	(Status - patented, pending, abandoned)
<u> </u>	<u> </u>	<u> </u>
(Application No.)	(Filing Date)	(Status - patented, pending, abandoned)

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

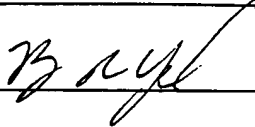
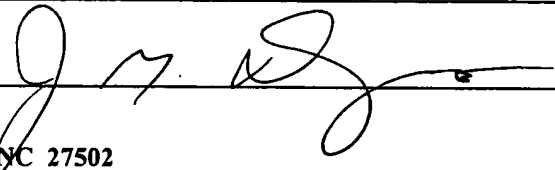
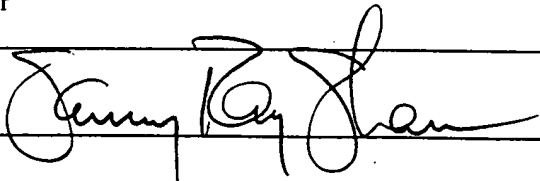
Jason C. Abair, Reg. No. 44,007	Christopher L. Kelley, Reg. No. 42,714
Ethan B. Andelman, Reg. No. 48,997	Brian S.Y. Kim, Reg. No. 41,114
Michael J. Bell, Reg. No. 39,604	Viola T. Kung, Reg. No. 41,131
Andrew S. Brenc, Reg. No. 45,534	Robert C. Laurenson, Reg. No. 34,206
Celine T. Callahan, Reg. No. 34,301	Joseph P. Lavelle, Reg. No. 31,036
Kevin Cheatham, Reg. No. 48,766	Don F. Livornese, Reg. No. 32,040
Jenny W. Chen, Reg. No. 44,604	Christopher A. Mathews, Reg. No. 35,944
Robin C. Chiang, Reg. No. 46,619	Matthew J. Moore, Reg. No. 42,012
Chris Comuntzis, Reg. No. 31,097	Andrew Y. Piatnicia, Reg. No. 40,772
James F. Davis, Reg. No. 21,072	William C. Rooklidge, Reg. No. 31,791
Thomas M. Dunham, Reg. No. 39,965	Michael J. Stimson, Reg. No. 45,429
Panpan Gao, Reg. No. 43,626	William K. West, Reg. No. 22,057
Darren J. Gold, Reg. No. 47,599	Adam K. Whiting, Reg. No. 44,400
Alan M. Grimaldi, Reg. No. 26,599	Jayna R. Whitt, Reg. No. 47,175
J. Jay Guiliano, Reg. No. 41,810	Karen K. Wong, Reg. No. 44,409
Albert P. Halluin, Reg. No. 25,227	Wallace Wu, Reg. No. 45,380
Leslie L. Jacobs, Jr., Reg. No. 40,659	Matthew S. Zises, Reg. No. 47,246
Derek J. Jardieu, Reg. No. 44,483	Mark Montgomery, Reg. No. 30,780

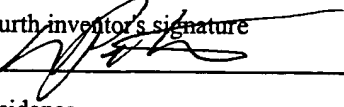
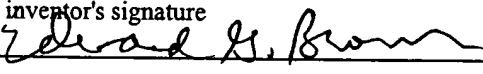

Send Correspondence to:

Albert P. Halluin
HOWREY SIMON ARNOLD & WHITE, LLP
301 Ravenswood Avenue
Box No. 34
Menlo Park, CA 94025
Facsimile: (650) 463-8144

Direct Telephone Calls to: (650) 463-8109

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor Benjamin R. YERXA	
Inventor's signature 	Date FEB 19, 2003
Residence 3119 Birnamwood Road, Raleigh, NC 27607	
Citizenship US	
Post Office Address 3119 Birnamwood Road, Raleigh, NC 27607	
Full name of second inventor James G. DOUGLASS, III	
Second inventor's signature 	Date FEB 19, 2003
Residence 211 S. Mason Street, Apex, NC 27502	
Citizenship US	
Post Office Address 211 S. Mason Street, Apex, NC 27502	
Full name of third inventor Sammy Ray SHAVER	
Third inventor's signature 	Date FEB 19, 2003
Residence 614 Hollow Ct., Chapel Hill, NC 27516-9459	
Citizenship US	
Post Office Address 614 Hollow Ct., Chapel Hill, NC 27516-9459	

Full name of fourth inventor Ward M. PETERSON	
Fourth inventor's signature 	Date FEB 19, 2003
Residence 202 Chandler Chase Court, Morrisville, NC 27560	
Citizenship US	
Post Office Address 202 Chandler Chase Court, Morrisville, NC 27560	
Full name of fifth inventor Edward G. BROWN	
Fifth inventor's signature 	Date FEBRUARY 20, 2003
Residence 302 Glenmore Road, Cary, NC 27519	
Citizenship US	
Post Office Address 302 Glenmore Road, Cary, NC 27519	
Full name of sixth inventor Christopher S. CREAN	
Sixth inventor's signature 	Date FEB 19, 2003
Residence 208 Calebra Way, Cary, NC 27519	
Citizenship US	
Post Office Address 208 Calebra Way, Cary, NC 27519	

(Supply similar information and signature for subsequent joint inventors, if any)